

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

PAT GITLER,

Plaintiff,

v.

CITY OF OAK PARK,

Defendant.

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Case Number 12-10245

Honorable David M. Lawson

Magistrate Judge Michael J. Hluchaniuk

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE, AND DENYING  
DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS AS MOOT**

Presently before the Court is the report issued on October 12, 2012 by Magistrate Judge Michael J. Hluchaniuk pursuant to 28 U.S.C. § 636(b), recommending that this Court dismiss the plaintiff's complaint with prejudice for failure to prosecute and deny as moot the defendant's motion for judgment on the pleadings. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt. #11] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that the defendant's motion for judgment on the pleadings [dkt. #7] is **DENIED AS MOOT**.

s/David M. Lawson  
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DAVID M. LAWSON  
United States District Judge

Dated: November 1, 2012

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 1, 2012.

s/Deborah R. Tofil  
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DEBORAH R. TOFIL